

## REMARKS/ARGUMENT

### Description of Amendments

No claims are currently amended. Claims 1, 2, and 4-16 remain pending after entry of this Amendment. Reconsideration and removal of the rejections are respectfully requested.

### Rejection under 35 U.S.C. §103

#### I.

Claim 1-2, 4-7, and 11-16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over US 6,214,115 (“Taylor”) in view of US 6,743,462 (“Pacetti ‘462”).

Effective November 29, 1999, subject matter which was prior art under former 35 U.S.C. §103 via 35 U.S.C. §102(e) shall not preclude the patentability of the claimed invention under 35 U.S.C. §103 if that subject matter and the claimed invention, “were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person” (see MPEP Section 706.02(l)(1)). A statement of an attorney of record can be sufficient evidence to establish common ownership (see MPEP Section 706.02(l)(2)).

The present application was filed on April 2, 2004 and is a divisional of Application No. 10/254,203 now U.S. Patent No. 6,818,063 which was filed on September 24, 2002, which is before the issue date of Pacetti ‘462, June 1, 2004.

As established by the enclosed **Statement of Common Ownership**, at the time the invention of the current application was made, the inventions of the current application and Pacetti ‘462 were owned by, or subject to an obligation of assignment to, Advanced Cardiovascular Systems, Inc., a California corporation. Since the Applicant has established common ownership, Pacetti ‘462 cannot be used as prior art and should be removed as a reference. Accordingly, claims 1-2, 4-7, and 11-16 are patentably allowable. Applicant respectfully requests withdrawal of the rejections and allowance of the claims.

II.

Claims 6-10, 13, and 16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Taylor in view Pacetti '462" as applied to claims 1, 11 and 14 and in further view of US 6,565,659 ("Pacetti '659").

The present application was filed on April 2, 2004 and is a divisional of Application No. 10/254,203 now U.S. Patent No. 6,818,063 which was filed on September 24, 2002, which is before the issue date of Pacetti '659, May 20, 2003.

As established by the enclosed **Statement of Common Ownership**, at the time the invention of the current application was made, the inventions of the current application and Pacetti '659 were owned by, or subject to an obligation of assignment to, Advanced Cardiovascular Systems, Inc., a California corporation. Since the Applicant has established common ownership, Pacetti '659 cannot be used as prior art and should be removed as a reference. Accordingly, claims 6-10, 13, and 16 are patentably allowable. Applicant respectfully requests withdrawal of the rejections and allowance of the claims.

Conclusion

In light of the foregoing remarks, this application is considered to be in condition for allowance, and early passage of this case to issue is respectfully requested.

Respectfully submitted,

Date: January 16, 2008

Squire, Sanders & Dempsey L.L.P.  
One Maritime Plaza  
Suite 300  
San Francisco, CA 94111  
Facsimile (415) 393-9887  
Telephone (415) 393-09857  
nmorales@ssd.com

/Norman Morales/

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Norman Morales  
Attorney for Applicant  
Reg. No. 55,463